

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **CHAIRMAN CHRISTINE KAUFMANN**, on February 3, 2005 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Christine Kaufmann, Chairman (D)
Sen. Dan Weinberg, Vice Chairman (D)
Sen. John Cobb
Rep. Joey Jayne (D)
Sen. Greg Lind (D)
Rep. Penny Morgan (R)

Members Excused: Rep. Walter McNutt (R)

Members Absent: None.

Staff Present: Pat Gervais, Legislative Branch
Laura Good, Committee Secretary
Lois Steinbeck, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

CHAIR REP. CHRISTINE KAUFMANN, HD 81, HELENA, called the meeting to order and announced that tomorrow's Senior and Long Term Care Division (SLTC) Public Testimony would be held in Room 303.

OVERVIEW: SENIOR AND LONG-TERM CARE DIVISION

Ms. Kelly Williams, Administrator, SLTC, continued with the SLTC overview she began yesterday, referring to Exhibit 7 from Wednesday, February 2, 2005, and beginning with Page 9, Community Services Program.

SEN. DAN WEINBERG, SD 2, WHITEFISH, asked about the status of individuals on the Home and Community Based Services (HCBS) Waiver.

Ms. Williams directed the committee to a map showing the location of HCBS waiver waiting list individuals in 2004, by county. She noted that some are living in nursing facilities, while other live at home or with family.

{Tape: 1; Side: A; Approx. Time Counter: 4.5}

CHAIR KAUFMANN requested a cost per HCBS waiver client figure, and asked how much it would cost to move all wait-listed individuals into service.

Ms. Williams noted that SLTC has a Decision Package (DP) that would remove 80 people from the waiting list. She stated that it would take \$9 million to move all individuals from the waiting list into services; and stated that average yearly costs for one individual's home-based services comes to \$18,000, while average yearly costs for one individual's nursing facility care comes to \$23,000.

Ms. Williams discussed Page 9, Cost of Services used by Waiver Clients; Page 10, Assisted Living Beds, Community Services Waiver Slots versus Recipients; Page 11, 2004-2005 Nursing Facility Transition Project.

{Tape: 1; Side: A; Approx. Time Counter: 14.5}

At the request of **REP. PENNY MORGAN, HD 57, BILLINGS, Ms. Williams** compared the costs of community-based services to costs of nursing facility services.

Ms. Steinbeck also touched on waiver services costs and cost savings issues.

CHAIR KAUFMANN wondered what kind of cost savings could be achieved by moving 176 individuals from nursing facilities into community-based services.

Ms. Williams agreed to report back to the Committee with this information.

Ms. Williams covered Page 11, Community Services: Personal Assistance Programs, Home Health, and Private Duty Nurses.

{Tape: 1; Side: A; Approx. Time Counter: 23.9}

SEN. WEINBERG asked if there are vacancies in the nursing positions.

Ms. Williams stated that nurses are contracted, and that Registered Nurses (RN's) and Licensed Practical Nurses (LPN's) are difficult to retain due to higher salaries offered by other entities.

Ms. Steinbeck told the Committee about significant staffing issues at the Columbia Falls Veterans' Home.

Ms. Williams discussed Page 12, Community Services, Hospice.

{Tape: 1; Side: B}

Responding to **REP. MORGAN**, **Ms. Williams** explained the differences between Medicaid and Medicare hospice care provision, and discussed SLTC's responsibilities and authority in each program. Replying to **CHAIR KAUFMANN**, she stated that hospice services are offered by specialized providers, to which SLTC contracts.

Ms. Williams went on to Page 12, Community Services: Home Dialysis; Page 13, State Supplemental Payment Program, Adult Protective Services; Page 14, Adult Protective Services Referrals, Fiscal Year (FY) 1998-2004; Page 14, Division Legislation; Page 15, Aging Services.

{Tape: 1; Side: B; Approx. Time Counter: 19.8}

Prompted by **REP. MORGAN**, **Ms. Williams** elaborated on funding guidelines and formulas used to fund various Aging Services programs.

Ms. Williams returned to the Overview, discussing Page 16, Aging Services Funding Sources; Page 15, Aging Services Programs - Total meals served through congregate and home-delivered meals; Page 17, Other Aging Services Programs.

{Tape: 1; Side: B; Approx. Time Counter: 26.6}

Ms. Steinbeck offered the committee information about the State Health Information and Assistance Program (SHIP), and indicated that it could play a substantial part in the Medicare Modernization Act (MMA) rollout.

Responding to a question from **REP. JOEY JAYNE, HD 15, ARLEE, Ms. Williams** stated that while SLTC at one time operated an area agency dedicated to Native Americans, that agency has since been absorbed into one of the remaining ten agencies.

{Tape: 2; Side: A}

Ms. Williams discussed Page 17, Veterans' Demographics; Page 18, Veterans' Nursing Homes - Eastern Montana Veterans' Home in Glendive, and the Montana Veterans' Home in Columbia Falls.

At the request of **REP. MORGAN, Ms. Williams** described nuances of SLTC's cigarette tax funding, stating that although the tax has changed, the amount of tax revenue received by nursing homes remains steady.

{Tape: 2; Side: A; Approx. Time Counter: 6.2}

Ms. Steinbeck noted that SLTC can keep and transfer forward a biennium ending fund balance of \$2 million in the cigarette tax State Special Revenue account that funds veterans' services.

Ms. Williams took the opportunity to discuss other fiscal issues, including staff pay issues at the Montana Veterans' Home in Columbia Falls.

SEN. WEINBERG asked how the committee and division might work together to solve these staff pay issues.

{Tape: 2; Side: A; Approx. Time Counter: 9.5}

Ms. Williams stated that SLTC has tried to do so by moving staff quickly from entry to market pay rates, and has also offered paid Certified Nurse Assistant (CNA) training in hopes that trainees would be enticed to stay on for employment. She discussed the possibility of a Veterans' Administration-wide grant for increased staff pay.

Referring to a Map of Eastern Montana Veterans' Home Residents' County of Origin, **REP. MORGAN** asked if staff-strapped SLTC Veterans' facilities have the right to serve Montana residents first.

{Tape: 1; Side: B; Approx. Time Counter: 14}

Ms. Williams told the committee that SLTC Veterans' facilities serve Montanans first, then spouses and surviving spouses of Montanans, and then out-of-state veterans. She said that out-of-state Veterans' generally come to Montana for service because they have family in-state.

Ms. Williams also noted that Veterans' Homes are not an entitlement program, and that the state is not mandated to provide or manage them.

{Tape: 1; Side: B; Approx. Time Counter: 20.3}

Ms. Williams moved on to discuss Page 19, Veterans' Facility Funding Criteria, I-149 Funding Distribution; Page 20, Flexibility Language/Contingency added to HB 2 during 2003 session, HB 5 Long Range Building Request; Page 21, SLTC Program Management Philosophy, Examples of Philosophy in Action.

In response to a question from **REP. MORGAN**, **Ms. Williams** noted that revenue remaining from that raised by HB 698 stands at approximately \$3,000. The appropriations limit is \$8,000 per year.

REP. MORGAN asked why there are more Traumatic Brain Injuries (TBIs) on Indian Reservations than in any other areas of the state.

{Tape: 1; Side: B; Approx. Time Counter: 29.3}

Mr. James Driggers, Bureau Chief, County Services Bureau, cited anecdotal data attributing the high numbers of TBIs on Indian Reservations to accidents and injuries related to alcoholism and domestic violence.

{Tape: 2; Side: B}

SEN. LIND asked if the number of TBIs on reservations could be linked to data on Native American seatbelt use.

Mr. Driggers had no data by which to link the number of TBIs on reservations to prevalence of seatbelt use among Native Americans.

REP. JAYNE expressed that she did not feel it was prudent for SLTC to use anecdotal data in making public assumptions about reasons for high numbers of TBIs on Indian Reservations, and asked that SLTC refrain from doing so.

Ms. Williams stated that SLTC has TBI statistics as submitted in a grant application to CMS, and will provide them to the committee.

{Tape: 2; Side: B; Approx. Time Counter: 4.8}

Ms. Williams returned to the Overview, discussing Page 22, Examples of Philosophy in Action (continued), 2004 Expenditures Under Appropriations.

Ms. Steinbeck reported to the committee that recent federal and state fiscal relief efforts have reduced general fund Medicaid expenditures, thus helping SLTC to remain within its budget.

SEN. WEINBERG noted that SLTC chose to underspend its appropriations by \$32 million, yet still maintains waiting lists, and asked the division to provide a rationale for this decision.

Ms. Williams stated that because the HCBS waiver is capped, SLTC could not fund and serve above the capped limit. This resulted in the HCBS waiver waiting list.

{Tape: 2; Side: B; Approx. Time Counter: 10.1}

SEN. WEINBERG requested that SLTC describe the kind of legislative authority it needs to achieve fiscal flexibility.

Mr. Norm Rostocki, Bureau Chief, SLTC Budget Bureau, warned that if, during the first year of the biennium, SLTC serves more individuals via the non-entitlement waiver, those same individuals may not receive services in the second year due to unanticipated growth in SLTC entitlement programs.

Ms. Williams reiterated that in order to serve the entirety of current wait list individuals, SLTC would need to spend \$9 million each year of the biennium.

{Tape: 2; Side: B; Approx. Time Counter: 13.5}

Ms. Steinbeck discussed details of SLTC's authority to move funds between programs. She also informed the committee that the Federal government has to approve extra waiver slots.

SEN. JOHN COBB, SD 9, AUGUSTA, voiced his concerns and ideas about waiver expansion.

SEN. WEINBERG charged the committee and division to consider a balanced approach to dealing with the waiting list while also buffering SLTC's entitlement programs.

{Tape: 2; Side: B; Approx. Time Counter: 17.8}

Ms. Steinbeck noted that the Legislative Fiscal Division's (LFD) nursing home caseload projection is smaller than that provided by SLTC, and suggested ways the committee might use the LFD number in calculation of appropriations.

REP. MORGAN asked the staff to find out how the asset transfer look-back bill carried by **REP. TOM MCGILLVRAY, HD 50, BILLINGS** would affect services for people who have not yet been served under the waiver.

Ms. Steinbeck agreed to provide this information to the committee. She also discussed possible affects of **REP. MCGILLVRAY**'s bill and other related bills, and suggested that the committee could tie its appropriations to the passage of such bills. **Ms. Steinbeck** also agreed to get more information about ways to structure tax breaks that would encourage purchase of individual long-term care insurance.

{Tape: 2; Side: B; Approx. Time Counter: 23.8}

Ms. Williams informed the committee that **REP. MCGILLIVARY**'s asset transfer look-back bill contains no fiscal note, so it will not achieve any savings by cutting funding for past or current services.

Ms. Steinbeck disagreed with Ms. Williams, stating that there would be savings from the asset transfer look-back bill depending on its application.

SEN. WEINBERG emphasized again the discrepancy between appropriated and expended funds and expressed that he would like to use them to serve individuals on the waiting list.

{Tape: 2; Side: B; Approx. Time Counter: 27}

Ms. Steinbeck stated that the funds have been reverted to the general fund, and explained that the funds are now only available to SLTC if the committee appropriates them for use by SLTC.

Responding to questions from the committee, **Ms. Steinbeck** offered a more complete explanation of SLTC funding. She stated that when the Federal government increased the Medicaid match rate, less State General Fund was needed to fund Medicaid services. The Governor's Office of Budget and Program Planning (OBPP) allowed SLTC to spend some of the savings, but required it to revert the rest to general fund.

{Tape: 3; Side: A}

Ms. Williams introduced discussion of SLTC Decision Packages (DPs), Page 24, DP 24 Federal Matching Assistance Percentage (FMAP) Enhanced Adjustment for Nursing Home; DP 30, FMAP Adjustment for Nursing Homes; DP 91, FMAP Enhanced Adjustment Nursing Homes, Intergovernmental Transfers (IGT); DP 94, FMAP Adjustment for County Nursing Homes, IGT. She went on to Page 25, DP 21, Medicaid Caseload.

Ms. Steinbeck noted issues that create differences between SLTC-projected Medicaid caseload and LFD-projected Medicaid caseload. She also talked about augmenting waiver services and the resulting increases in served population.

{Tape: 3; Side: A; Approx. Time Counter: 5.6}

Ms. Williams discussed Page 25, DP 88, Annualize HB 705 Nursing Home Provider Fee.

Ms. Steinbeck noted an error in DP 88 day rate calculations, as presented in the Budget Analysis.

Ms. Williams continued with Page 25, DP 89, County Nursing Home IGT Increases.

Ms. Steinbeck stated that the committee could structure appropriations in order to accommodate both IGT and bed tax increases. Responding to a question from **SEN. WEINBERG**, **Ms. Steinbeck** explained that federal auditors are currently attempting to determine whether or not provider taxes can count toward state matching funds. She also noted that no matter how much IGT or bed taxes are raised, there is a Medicaid upper-payment limit.

{Tape: 3; Side: A; Approx. Time Counter: 9.8}

Ms. Williams clarified that this Medicaid upper-payment limit is determined by provider class. She also noted that there are different Medicaid limits for IGT and provider taxes.

Ms. Williams went on to Page 26, 2007 Biennium Decision Packages, State Supplemental Program.

Responding to question from **REP. MORGAN**, **Ms. Steinbeck** stated that she is unsure as to how the Medicare Modernization Act (MMA) will affect nursing home costs.

Ms. Williams interjected that the MMA pharmacy benefit is outside of the nursing home per diem Medicaid payment rate. She also stated that prescription drug benefits for long-term care consumers are included in the Health Resources Division budget.

{Tape: 3; Side: A; Approx. Time Counter: 14.2}

Ms. Steinbeck went on to discuss options for covering costs of state supplemental caseload increases.

Ms. Williams continued with Page 26, 2007 Biennium Decision Packages for Aging Services: DP 173, Increased Funding for Caregiver Program; DP 68, Restore Meals on Wheels Funding.

Responding to a question from **REP. MORGAN**, **Ms. Williams** stated that DP 68 funds are also to be used on transportation and other aging services.

Ms. Steinbeck discussed the history of Meals on Wheels reductions.

Ms. Williams directed the committee to the first of the Community Based Services DPs on Page 27, 2007 Biennium DPs: Community Based Services - DP 28, FMAP Enhanced Adjustment Waiver Services; DP 34, FMAP Adjustment Waiver Services; DP 81, Additional Clients on the Community Based Waiver.

{Tape: 3; Side: A; Approx. Time Counter: 21.7}

Responding again to **REP. MORGAN**, **Ms. Williams** discussed varying costs of each slot, based on individuals' specific medical needs.

The committee, **Ms. Steinbeck**, and **Ms. Williams** discussed historical, present and possible calculations of waiver slots.

Prompted by **REP. MORGAN**, **Ms. Steinbeck** presumed that the look-back period would affect funding for the Community Based Waiver, and offered reasons why SLTC might feel immediate and significant effects of this.

{Tape: 3; Side: B}

Referring to Page B-186, **Ms. Steinbeck** discussed the average cost of a waiver slot. She agreed to provide the Committee with recent historical slot costs.

Ms. Williams turned to Page 28, DP 27, FMAP Enhanced Adjustment, Home Based Services; DP 33, FMAP Adjustment Home Based Services; DP 16, Home Based Caseload.

Responding to a question from **REP. JAYNE, Ms. Steinbeck** directed the Committee to a chart on Page B-172, showing base-level expenditures for the Home-Based caseload.

Ms. Williams returned to the overview, Page 29, DP 114, Personal Assistance Base Restoration.

REP. MORGAN requested a break-out of Personal Assistance expenditures.

Ms. Williams asked that the Committee turn to a chart on Page 4, showing SLTC expenditures per program.

{Tape: 3; Side: B; Approx. Time Counter: 6.7}

Ms. Williams resumed the overview, discussing Page 29, DP 4, Continuation of Prevention and Stabilization Account (PSA) funds for Hospice and Home Health Therapy; DP 3004, Replace PSA with I-149 for Hospice and Home Health Therapy; Page 30, DP 106, Annualize Traumatic Brain Injury Funds, DP 9999, FTE Reduction of .65 FTE; Page 31, DP 93, Montana Veterans' Home Adjustment.

{Tape: 3; Side: B; Approx. Time Counter: 15.1}

Responding to questions from **REP. MORGAN** and reflections from **Ms. Williams, Ms. Steinbeck** clarified Veterans' Homes I-149 funding issues regarding statute, State Special Revenue funds, and fund caps.

REP. MORGAN expressed that, in her estimation, I-149 ballot language did not appropriately address the fact that I-149 monies would be used for Veterans' Homes.

{Tape: 3; Side: B; Approx. Time Counter: 17.4}

Mr. Bob Andersen, Office of Budget and Program Planning (OBPP), offered OBPP perspective on I-149 funding issues.

Ms. Williams returned to the overview, Page 31, DP 175, Additional Funding - Eastern Montana Veterans' Home, and DP 95, Montana Veterans' Home Contingency Fund Line.

Ms. Steinbeck noted the significant number of vacant positions at the Columbia Falls Veterans' Home, and discussed ways that this issue might affect funding decisions.

Ms. Williams discussed Page 32, DP 118, Eastern Montana Veterans' Home Flooring. Responding to questions from **CHAIR KAUFMANN, Ms. Williams** stated that DP 118 has been separated out from SLTC HB5

request because flooring costs are related to the existing building, not the new addition. She explained that SLTC owns the home, although it does not operate it, so as a landlord SLTC must take responsibility for upkeep.

{Tape: 3; Side: B; Approx. Time Counter: 21.4}

Replying to **SEN. LIND, Ms. Williams** said that at the last session SLTC did not present DPs that were as specific as DP 118.

Ms. Williams went on to discuss Page 32, DP 116, Montana Veterans' Home Replacement Vehicles.

REP. MORGAN asked why SLTC presents additional requests, rather than absorbing such costs into the \$2 million tobacco tax appropriation.

Ms. Steinbeck explained the difference between cash and appropriations, stating that SLTC cannot spend the \$2 million without appropriations. In order to better illustrate her point, she directed the committee to Figure 54 on Page B-178.

{Tape: 3; Side: B; Approx. Time Counter: 29.1}

Ms. Williams went on to discuss Page 32, DP 3202 I-149 Proposals.

{Tape: 4; Side: A}

Ms. Williams continued with Page 33, DP 3202 I-149 proposals.

Responding to questions from **SEN. LIND, Mr. Chappuis** discussed the rationale behind the Department's \$2 million carry-forward balance.

Responding to **SEN. WEINBERG, Ms. Steinbeck** reminded the Committee members that if they feel the carry-forward balance, or any other mechanism or decision on the part of the former Committee, is no longer effective, the current Committee may work to alter, change, or delete those.

{Tape: 4; Side: A; Approx. Time Counter: 5.5}

Also responding to **SEN. WEINBERG, Mr. Andersen** explained carry-forward balance issues from the OBPP perspective.

Prompted by **CHAIR KAUFMANN, Ms. Steinbeck** discussed the provider rate increases and direct care workers' wages. She suggested that the committee members might want to ask DPHHS to identify a

standard methodology by which to track and account for the actual raising of direct care worker wages.

Ms. Steinbeck provided two documents to the committee.

[EXHIBIT\(jhh27a01\)](#)

[EXHIBIT\(jhh27a02\)](#)

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. CHRISTINE KAUFMANN, Chairman

LAURA GOOD, Secretary

CK/lg

Additional Exhibits:

EXHIBIT ([jhh27aad0.PDF](#))